

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS, WESTERN DIVISION**

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JOHN BIRTELL,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

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Case No.:

**COMPLAINT AT LAW**

NOW COMES, the plaintiff, JOHN BIRTELL, by and through his attorneys, O’CONNOR LAW FIRM, LTD., and complaining of the defendant, THE UNITED STATES OF AMERICA, alleges the following:

**Jurisdiction and Venue**

1. The jurisdiction of this court arises pursuant to the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 1346(b)(1).
2. On September 10, 2020, plaintiff issued his required demand form to the defendant, and has not received a response within the six (6) month time frame. *See Exhibit A.* Defendants’ failure to respond is considered a denial pursuant to 28 U.S.C. § 2675(a). Therefore, plaintiff has exhausted all his claims.
3. The acts or omissions giving rise to this claim occurred in the Northern District of Illinois—Western Division. *See* 28 U.S.C. § 1402.

**Parties**

4. Plaintiff, JOHN BIRTELL, was at all relevant times, a resident of the city of Crystal Lake, county of McHenry, and state of Illinois.
5. Defendant, THE UNITED STATES OF AMERICA, is being sued for plaintiff's personal injuries caused by the negligent or wrongful acts or omission of one of its employees, Anita Kasz. That employee was acting within the scope of her office or employment under circumstances where the defendant, THE UNITED STATES OF AMERICA, if a private person, would be liable to plaintiff in accordance with the laws of the state of Illinois. *See* 28 U.S.C. § 1346(b)(1).

#### **Allegations**

6. On or about March 29, 2019, and for a long time prior, U.S. Route 14, was a public roadway running in a general northwesterly – southeasterly direction at or near its intersection with West Main Street in the city of Cary, county of McHenry, and state of Illinois.
7. On or about March 29, 2019, and for a long time prior, the intersection of U.S. Route 14 and West Main Street is controlled by a traffic control device.
8. On or about March 29, 2019, plaintiff, JOHN BIRTELL, was operating a motor vehicle in a southeasterly direction on U.S. Route 14 at or near its intersection with West Main Street in the city of Cary, county of McHenry, and state of Illinois.
9. On or about March 29, 2019, defendant, THE UNITED STATES OF AMERICA, by and through its agent, employee, and/or servant, was

operating a motor vehicle in a northwesterly direction on U.S. Route 14 at or near its intersection with West Main Street in the city of Cary, county of McHenry, and state of Illinois.

10. At the aforesaid time and place, defendant, THE UNITED STATES OF AMERICA, by and through its agent, employee, and/or servant, Anita Kasz, while operating its motor vehicle, disobeyed the traffic control device and collided head-on with the motor vehicle operated by plaintiff, JOHN BIRTELL.

11. At the aforesaid time and place, defendant, THE UNITED STATES OF AMERICA, by and through its agent, employee, and/or servant, Anita Kasz, failed to operate its motor vehicle in a safe and reasonable manner for the safety and protection of all other motorists traveling on or near the road, including plaintiff, JOHN BIRTELL.

12. At the aforesaid time and place, defendant, THE UNITED STATES OF AMERICA, by and through its agent, employee, and/or servant, Anita Kasz, then and there violated its duty of care owed to plaintiff, JOHN BIRTELL, through one or more of the following negligent acts and/or omissions:

- a. failed to obey a traffic control device in violation of 625 ILCS 5/11-305;
- b. carelessly and/or negligently failed to stop or steer its motor vehicle to avoid striking the Plaintiff, JOHN BIRTELL's motor vehicle, although defendant saw or should have seen the plaintiff's motor vehicle and had ample time and opportunity to avoid striking him;
- c. operated his vehicle at a speed which was greater than reasonable and proper with regard to the traffic conditions thereby endangering the safety of persons and property in violation of 625 ILCS 5/11-604;

- d. failed to decrease speed so as to avoid colliding with the Plaintiff's motor vehicle;
- e. carelessly and/or negligently failed to sound its horn or other warning device when it was reasonably necessary to ensure safe operation of its vehicle in violation of 625 ILCS 5/12-601;
- f. operated its motor vehicle without keeping a proper and sufficient lookout for other motorists on the roadway.

13. That as a direct and proximate result of one or more of the aforesaid careless and negligent acts of the defendant, THE UNITED STATES OF AMERICA, by and through its agent, employee, and/or servant, Anita Kasz, the plaintiff, JOHN BIRTELL, then and there sustained severe and permanent injuries, and was, and will be, hindered and prevented from attending his usual duties and affairs of life, and has lost, and will lose, the value of that time as aforementioned. Further, the plaintiff suffered great pain and anguish, both in mind and body, and will continue to suffer in the future. Plaintiff further expended, and became liable for, and will in the future expend and become liable for, large sums of money for medical care and services endeavoring to become healed and cured of said injuries.

14. That as a direct and proximate cause of one or more of the aforesaid careless and negligent acts of the defendant, THE UNITED STATES OF AMERICA, by and through its agent, employee, and/or servant, Anita Kasz, the motor vehicle operated by the plaintiff suffered property damage.

15. The actions or omission by Anita Kasz described herein constitute the tort of negligence under the laws of the state of Illinois.

16. Under the Federal Tort Claims Act, defendant, THE UNITED STATES OF AMERICA, is liable for those actions or omissions.

WHEREFORE, the plaintiff, JOHN BIRTELL, seeks judgment in his favor and against the defendant, THE UNITED STATES OF AMERICA, in an amount of \$6,487,622.00 plus the costs of said suit.

**JURY DEMAND**

Plaintiff demands trial by jury.

Respectfully submitted,

/s/Matthew M. Popp  
Matthew M. Popp

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